

IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION
(Appellate Side)

Reserved on: 20.07.2022
Pronounced on: 05.08.2022

CPAN 330 of 2022

Smt. Sukanya Mirbahar

...Applicant

-Vs-

Debasree Roy and Others

...Contemnors

In

MAT 127 of 2022

Debasree Roy and Another

...Appellants

-Vs-

The State of West Bengal and Others

...Respondents

Present:-

Mr. Pradyumna Sinha,
Mr. Aniruddha Chatterjee,
Mr. Jaydeep Biswas,
Mr. Soumyadeep Das,
Mr. Kaushik Ghosh, Advocates

... for the applicant/petitioner

Mr. Samrat Sent, Id. AAAG
Mr. Pantu Deb Roy,
Mr. Bhaskar Chakraborty, Advocates

... for the State

Mr. Kallol Bose,
Mr. Debasish Kundu,
Mr. Souma Subhra Ray,
Mr. Samik Sarkar, Advocates

... for the contemnors

**Coram: THE HON'BLE JUSTICE PRAKASH SHRIVASTAVA,
CHIEF JUSTICE
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ,
JUDGE**

Prakash Shrivastava, CJ:

1. This contempt petition has been filed by the petitioner alleging that the wilful non-compliance of the order of this Court dated 30th of March, 2022 passed in MAT 127 of 2022 by the respondent contemnors 1 and 2.

2. The petitioner had filed WPA 127 of 2022 seeking a direction to the respondent contemnors to return the French Mastiff Dog 'Bruno' to the petitioner. A plea was raised in the petition that Bruno belongs to the petitioner and was got missing and was handed over by the police to the respondent contemnors who run an NGO.

3. Learned Single Judge after hearing the Counsel for all the parties including the Counsel for the respondent contemnors vide order dated 03.02.2022 had disposed of the writ petition by directing as under:

“Bruno shall be returned to its owners, i.e. the writ petitioner and her family in course of the day by the Debasree Roy Foundation. The writ petitioner unconditionally undertakes before this Court that she will take good care of the French Mastiff Dog, 'Bruno', physically and mentally.”

4. Against the above order of the learned Single Judge, respondent contemnors had preferred MAT 127 of 2022 which was dismissed by this Court by order dated 30th of March, 2022 upholding the order of learned Single Judge and directing as under:

“Hence, we direct the appellants to hand over the custody of the dog to the respondent No.7 forthwith.”

5. In spite of the above clear direction of this Court, the custody of the dog was not handed over by the respondent contemnors to the petitioner. The petitioner's Advocate had sent the communication dated 06.04.2022 to the contemnors' Advocate to arrange for handing over the custody of the dog and the contemnors' Advocate by communication dated 7th of April, 2022 had informed the Counsel for the petitioner that he had made request to the contemnors to take necessary steps to comply with the order dated 30th of March, 2022 but no response was received by him from the contemnors. The petitioner's Advocate on 6th of April, 2022 had also sent the communication to the contemnors to take necessary and immediate steps to comply with the order dated 30th of March, 2022. Another notice dated 7th of April, 2022 was sent by the petitioner's Advocate to the contemnors requesting the contemnors to make arrangement fo hand over the custody of the dog to the petitioner forthwith or else the petitioner will be constrained to initiate contempt proceedings.

6. In spite of the above repeated requests, no action was taken by the respondent contemnors to comply with the order of this Court.

7. The petitioner had filed this contemp petition on 12th of April, 2022. When the contempt petition was taken up by this Court on 9th of June, 2022, Counsel for the contemnors was present and this Court after taking note of the conduct of the contemnors had prima facie found that the contempt was committed accordingly granted two weeks time to show cause as to why they may not be held liable for contempt of this Court. On that date option was given to the alleged contemnors to purge the contempt.

8. On filing the reply to the show cuase notice by the respondent contemnors, the matter has been heard. A perusal of the reply revealed

that no justifiable reason has been put forth by the contemnors for not complying with the order of this Court except for stating that the contemnor No. 1 was not well from 04.04.2022 to 10.04.2022 and that she had grown attachment with the dog.

9. It is worth noting that the Special Leave Petition (C) No. 8131/2022 filed by the contemnors against the order of this Court dated 30th of March, 2022 in MAT 127 of 2022 was dismissed by the Hon'ble Supreme Court on 17.05.2022, but when the matter was taken up on 9th of June, 2022 this fact was not disclosed by the Counsel for the contemnors to this Court. In spite of dismissal of SLP, the contemnors have not complied with the order of this Court.

10. The record further reveals that in order to put obstruction in complying with the order of this Court, the contemnors have put forth a lame excuse that the contemnors had incurred expenses to the tune of Rs. 4,10,500/- towards the expenses for looking after the dog till 8th of June, 2022. In order to defy the order of this Court, the contemnors have misused the statement of Counsel for the petitioner about readiness to pay the expenses for keeping the dog.

11. It is worth noting that the learned Single Judge had passed the order dated 03.02.2022 and had directed the contemnors to hand over the custody during the course of the day. There was no stay granted by any Court against this order and the contemnors have wilfully violated this order each day thereafter. On the one hand contemnors have kept the dog in deliberate non-compliance of the order of this Court and on the other hand they are claiming such an exorbitant amount for looking after the dog for this period for which there is absolutely no justification.

12. The above conduct of the contemnors clearly reveals that the contemnors have wilfully and deliberately violated the order of this Court and have not handed over the custody in spite of the direction of the Single Judge and the Division Bench and repeated communications by the petitioner. Hence, we hold the contemnors guilty of committing contempt of this Court.

13. After this matter was heard and closed for order, custody of the dog was handed over by the contemnors to the petitioner and we were informed about it by the Counsel for the contemnors. The contemnors in the reply to the show cause notice have tendered unqualified apology. Hence, considering the fact that contemnors are running an NGO and order has now been complied with, we accept the unqualified apology. The present contempt petition is accordingly disposed of.

(PRAKASH SHRIVASTAVA)
CHIEF JUSTICE

(RAJARSHI BHARADWAJ)
JUDGE

Kolkata
05.08.2022

PA(SS)

(A.F.R. / N.A.F.R.)